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APPLICATION NO.	FILING DATE	FIRST NAMED INVENTOR	ATTORNEY DOCKET NO.
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09/473,791      12/28/99      HAACK

B

KNECHTEL DEMEUR & SAMLAN  
30 SOUTH WACKER DRIVE  
SUITE 2810  
CHICAGO IL 60606

PM82/0821

EXAMINER

GUTMAN, H

ART UNIT

PAPER NUMBER

3612

*5*

DATE MAILED:

08/21/00

**Please find below and/or attached an Office communication concerning this application or proceeding.**

**Commissioner of Patents and Trademarks**



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**Commissioner of Patents and Trademarks**

**Office Action Summary**

Application No.

09/473,791

Applicant(s)

HAACK, BRIAN

Examiner

Hilary L. Gutman

Art Unit

3612

-- The MAILING DATE of this communication appears on the cover sheet with the correspondence address --

**Period for Reply**

A SHORTENED STATUTORY PERIOD FOR REPLY IS SET TO EXPIRE 3 MONTH(S) FROM THE MAILING DATE OF THIS COMMUNICATION.

- Extensions of time may be available under the provisions of 37 CFR 1.136 (a). In no event, however, may a reply be timely filed after SIX (6) MONTHS from the mailing date of this communication.
- If the period for reply specified above is less than thirty (30) days, a reply within the statutory minimum of thirty (30) days will be considered timely.
- If NO period for reply is specified above, the maximum statutory period will apply and will expire SIX (6) MONTHS from the mailing date of this communication.
- Failure to reply within the set or extended period for reply will, by statute, cause the application to become ABANDONED (35 U.S.C. § 133).

**Status**

- 1) ☐ Responsive to communication(s) filed on \_\_\_\_.
- 2a) ☐ This action is **FINAL**. 2b) ☒ This action is non-final.
- 3) ☐ Since this application is in condition for allowance except for formal matters, prosecution as to the merits is closed in accordance with the practice under *Ex parte Quayle*, 1935 C.D. 11, 453 O.G. 213.

**Disposition of Claims**

- 4) ☒ Claim(s) 1-53 is/are pending in the application.
- 4a) Of the above claim(s) 5-7, 12, 13, 18-21, 27, 31-43, 45, 51 and 52 is/are withdrawn from consideration.
- 5) ☐ Claim(s) \_\_\_\_ is/are allowed.
- 6) ☐ Claim(s) 1-4, 8-11, 14-17, 22-26, 28-30, 44, 46-50, and 53 is/are rejected.
- 7) ☐ Claim(s) \_\_\_\_ is/are objected to.
- 8) ☐ Claims \_\_\_\_ are subject to restriction and/or election requirement.

**Application Papers**

- 9) ☒ The specification is objected to by the Examiner.
- 10) ☒ The drawing(s) filed on 28 December 1999 is/are objected to by the Examiner.
- 11) ☐ The proposed drawing correction filed on \_\_\_\_ is: a) ☐ approved b) ☐ disapproved.
- 12) ☐ The oath or declaration is objected to by the Examiner.

**Priority under 35 U.S.C. § 119**

- 13) ☐ Acknowledgment is made of a claim for foreign priority under 35 U.S.C. § 119(a)-(d).
- a) ☐ All b) ☐ Some \* c) ☐ None of the CERTIFIED copies of the priority documents have been:
1. ☐ received.
2. ☐ received in Application No. (Series Code / Serial Number) \_\_\_\_.
3. ☐ received in this National Stage application from the International Bureau (PCT Rule 17.2(a)).

\* See the attached detailed Office action for a list of the certified copies not received.

- 14) ☐ Acknowledgement is made of a claim for domestic priority under 35 U.S.C. & 119(e).

**Attachment(s)**

- 15) ☒ Notice of References Cited (PTO-892)
- 16) ☒ Notice of Draftsperson's Patent Drawing Review (PTO-948)
- 17) ☒ Information Disclosure Statement(s) (PTO-1449) Paper No(s) 2.
- 18) ☐ Interview Summary (PTO-413) Paper No(s). \_\_\_\_.
- 19) ☐ Notice of Informal Patent Application (PTO-152)
- 20) ☐ Other: \_\_\_\_\_

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## DETAILED ACTION

### *Election/Restriction*

1. Claims 5-7, 12-13, 18-21, 27, 31-43, 45, and 51-52 are withdrawn from further consideration pursuant to 37 CFR 1.142(b) as being drawn to a nonelected species, there being no allowable generic or linking claim. Election was made **without** traverse in Paper No. 4.
2. The applicant, in making the election of species in Groups 1 and 7, elected claim 57 which is not pending in the application. The examiner believes the applicant intended to elect claim 53 and not claim 57. Claim 53 will be examined on the merits but perhaps the applicant should submit a formal statement in the next response or amendment with regards to claim 53 and the "elected" claim 57.

### *Drawings*

3. The drawings are objected to under 37 CFR 1.83(a) because they fail to show the following features:

In Figure 1, the "sidewall 38" as described in the specification on page 9, lines 9, 16, 17, and 18, and page 2, lines 1, 2, and 11.

In Figure 2, the "lower latch means 59" is not clearly shown.

In Figure 3, the ""horizontal protrusion 55" on page 11, line 18, and "lower latch means 59" on page 11, line 20.

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In Figure 4, the "lower latch means 59" is not shown as stated on page 12, lines 1-2.

Any structural detail that is essential for a proper understanding of the disclosed invention should be shown in the drawing. MPEP § 608.02(d). Correction is required.

4. The drawings are objected to as failing to comply with 37 CFR 1.84(p)(5) because they include the following reference sign(s) not mentioned in the description:

In Figure 1, reference numbers 22, 24, 26, and 44. The reference number 44 appears to be pointing to the wheel well shroud and perhaps should instead be 42.

In Figure 17, reference letter "C" is not described.

Figure 18 is not adequately described in the specification. In addition, reference letter "D" is not described.

Correction is required.

5. The drawings are objected to because:

Figure 3 appears to be incorrect and misleading. Figure 3 appears to be a view from the front of the vehicle looking back towards the rear end of the vehicle since the uniform closure channel is behind the lock means 58. However, the sidewall 36 is shown and labeled and is normally located on the left side (as seen in Figure 1) of the vehicle when standing at the rear of the vehicle and facing forwards. If this were the case the uniform closure channel 78 would be

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located in front of the lock means 58 and not behind it. To remedy this, one might change reference number 36 to 38 or draw the uniform closure channel 78 in front of lock means 58.

In Figure 1, the lead lines extending from reference number 76 to the horizontal protrusions stop short of the actual protrusions.

In Figure 11, there is a lead line between reference numbers 36 and 50 towards the top of the figure which has no reference number attached but appears to be pointing to one of the wheel well shrouds. Perhaps this lead line should have reference number 42 at the end of it or removed altogether.

In Figures 14 and 15, another embodiment is illustrated but it is unclear how the storage compartments of these figures are related. It appears from Figure 15 that the back end of the storage compartment should be open since no panel or side wall completes the storage compartment. However, in Figure 14, the storage compartment appears complete and there appears to be some unknown panel at the back to close the storage compartment. The same problem appears to apply to Figures 14 and 16.

In Figures 19 and 20, lead line extending from the reference number 56 points to what appears to be perhaps the living hinge 52 and not the divider panel 56.

Correction is required.

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6. The drawings are objected to under 37 CFR 1.83(a). The drawings must show every feature of the invention specified in the claims. Therefore, the following features must be shown or the feature(s) canceled from the claim(s).

The “two living hinges” on the divider panel of claims 14, 29, 30, and 53.

The “living hinges” enabling the divider panel to be raised vertically at one hinge and raised horizontally at the other, of claims 14, 29, 30, and 53.

The “horizontally divided locking means” of claim 50.

No new matter should be entered.

7. Applicant is required to submit a proposed drawing correction in reply to this Office action. However, formal correction of the noted defect can be deferred until the application is allowed by the examiner.

### *Specification*

8. The disclosure is objected to because of the following informalities:

On page 2, line 19, the phrase “use valuable storage space when the truck is not needed” is unclear.

On page 3, lines 7-8, the phrase “three sides of the liner bottom” is awkward. On line 18, the phrase “to a 90 position” is unclear and awkward. On line 20, the phrase “then rotated 90

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with respect" is awkward and unclear and should perhaps instead be "then rotated 90 degrees with respect" for clarity.

On page 4, line 8, the phrase "located in side wall" should perhaps be changed to "located in the side wall". On line 13, the phrase "with the Side wall" should perhaps be "with the side wall".

On page 5, it is unclear why the first letters in the words "Truck Bed Liner" are capitalized in lines 2, 8, 10, 13, and 16 and perhaps these letters should be changed to lower case in these instances and throughout the specification. On line 5, the word "having" should perhaps be have for grammatical reasons. The sentence starting on line 4 and ending on line 7 is unclear, awkward, and appears to be incomplete. The sentence describes both the divider panel and an enclosure panel but later states "its fourth side" and it is unclear what is meant by this. On line 9, the phrase "at 90 from the horizontal" should perhaps instead be "at 90 degrees from the horizontal" or "perpendicular to the horizontal". On line 11, it is unclear why in the phrase "Side wall" the letter "s" is capitalized and perhaps this phrase should be "side wall".

On page 6, lines 12, 13, and 15 all contain a phrase with "90" and in all of these instances and throughout the rest of the specification perhaps the "90" should be changed to "90 degrees". On line 20, it is unclear why in the phrase "Side wall" the letter "s" is capitalized and perhaps this phrase should be "side wall" in this instance and throughout the specification.

On page 11, lines 16-19, the phrase "pressure is applies to a point along divider panel 56 at horizontal protrusion 55" is unclear. As seen in Figure 1, the horizontal protrusion 55 is not



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located on or near divider panel 56 and therefore it is unclear how pressure is applied to remove the divider from the lock means. On lines 19-20, the phrase "divider panel 56 is secured into place by lower latch means 59" is unclear where the lower latch means is located with respect to the living hinge 52 and since the divider panel 56 is already secured to the liner 20 by the living hinge 52 it is unclear why the lower latch means 59 is needed. In addition, in general it is unclear whether the uniform closure channel 78 blocks or hinders the movement of the divider panel when it is being moved from the horizontal storage position to the vertical position.

On page 12, lines 1-2, the "lower latch means 59" is not shown in Figure 4 as stated.

On page 13, lines 2-3, the phrase "Base panel 72 is then rotated from the horizontal position to an essentially horizontal position" is unclear and perhaps the second "horizontal" should instead be changed to "vertical" so that the base panel 72 rotates from a horizontal to a vertical position. On lines 11-12, the "base channel 72" should perhaps be the "base panel 72" as previously stated.

On page 14, lines 3-4, it is unclear what is meant by the "opposite end of liner bottom 40". On line 8, the phrase "a front wall latch means 84" is unclear since the reference number 84 was previously used to describe "a front wall enclosure panel 84" (on line 1) and these phrases should perhaps be changed to correspond to one another for consistency or the reference number should be changed to distinguish two separate features for clarity in this instance and throughout the specification.

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On page 15, lines 10 and 12, the phrases "45 with respect to" and "45 position" are stated but this "45" should perhaps instead be "45 degrees" in these instances and throughout the specification. At the bottom of the page, another embodiment, illustrated in Figure 14, is disclosed but it is unclear how the storage compartment of Figures 14 and 15 are related. It appears from Figure 15 that the back end of the storage compartment should be open since no panel or side wall completes the storage compartment. However, in Figure 14, the storage compartment appears complete and there appears to be some unknown panel at the back to close the storage compartment. The same problem appears to apply to Figures 14 and 16.

On page 16, lines 9-13 are unclear specifically with respect to the enclosure panel 92, where it is located, and how it moves. Furthermore, Figure 18 was never fully or adequately described as to what's going on.

On page 18, line 5, the phrase "it in intended" should perhaps instead be "it is intended".

Appropriate correction is required.

9. The lengthy specification has not been checked to the extent necessary to determine the presence of all possible minor errors. Applicant's cooperation is requested in correcting any errors of which applicant may become aware in the specification.

#### *Claim Objections*

10. Claims 10, 11, 24, 25, and 30 are objected to because of the following informalities:

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In claim 10, on line 2, the "Side wall" should perhaps be "side wall". On line 3, "degree" should be inserted after "90".

In claim 11, on line 3, "Side" should be "side".

In claim 24, on line 2, the "Side wall" should perhaps be "side wall". On line 3, "degree" should be inserted after "90".

In claim 25, on line 3, "Side" should be "side".

In claim 30, on line 8, "Side" should be "side".

Appropriate correction is required.

***Claim Rejections - 35 USC § 112***

11. The following is a quotation of the second paragraph of 35 U.S.C. 112:

The specification shall conclude with one or more claims particularly pointing out and distinctly claiming the subject matter which the applicant regards as his invention.

12. Claims 10, 11, 14, 24-26, 29-30, 44, 46, 48-50, and 53 are rejected under 35 U.S.C. 112, second paragraph, as being indefinite for failing to particularly point out and distinctly claim the subject matter which applicant regards as the invention.

Claim 10 recites the limitations "each Side wall" in line 2, "the side walls" in line 3, "a raised position" on line 4, and "the horizontal axis" on line 5. There is insufficient antecedent basis for these limitations in the claim. In addition on line 3, "they" is recited which is unclear and perhaps is improper language for the claims. On line 5, it is unclear what is meant by "sufficient".

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Claim 11 recites the limitations "the two side walls" in line 2 and "the Side wall" in line 3. There is insufficient antecedent basis for these limitations in the claim. On line 4, it is unclear what is meant by "sufficient".

In claim 14, line 2, "integrated" is unclear. Also the "two living hinges" are unclear as well. Further, the phrase starting on line 3 with "the living hinges enabling" and ending on line 5 with "hinges;" is unclear, specifically as to how this is performed with the divider panel as shown in the figures.

Claim 24 recites the limitations "each Side wall" in line 2, "the side walls" in line 3, "a raised position" on line 4, and "the horizontal axis" on line 5. There is insufficient antecedent basis for these limitations in the claim. In addition on line 3, "they" is recited which is unclear and perhaps is improper language for the claims. On line 5, it is unclear what is meant by "sufficient".

Claim 25 recites the limitations "the two side walls" in line 2 and "the Side wall" in line 3. There is insufficient antecedent basis for these limitations in the claim. On line 4, it is unclear what is meant by "sufficient".

In claim 26, line 2, the phrase "releasably affixed" is unclear as to how a living hinge can exist between the base panel and the enclosure panel while the two are "releasably affixed".

In claim 29, the "two living hinges" of line 2 is unclear. In addition, the phrase starting on line 3 with "the living hinges enabling" and ending on line 5 with "hinges;" is unclear, specifically as to how this is performed with the divider panel as shown in the figures.

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Claim 30, the “formed members” of line 1 and the “two living hinges” of line 3 are unclear. Also, claim 30 recites the limitation “the bottom” in line 8. There is insufficient antecedent basis for this limitation in the claim. Also, the phrase starting on line 5 with “the living hinges enabling” and ending on line 7 with “hinges;” is unclear, specifically as to how this is performed with the divider panel as shown in the figures. Also in claim 30, lines 7-8 recite that the divider panel can form a storage compartment with the bottom and an adjacent side wall. However, this does not appear to be the case since this arrangement would only comprise three walls and a fourth wall, perhaps a “tailgate” would be needed to make the compartment complete. Therefore, the forming of a compartment with only the divider panel, bottom, and side wall, is unclear.

Claim 44, line 1, the “co-joined members” are unclear.

In claim 46, line 1, it is unclear how the “improvement” is “molded into” the truck bed.

In claim 48, line 1, it is unclear how or why the divider is “cut” into the bed.

Claim 49 recites the limitations “each side wall” in line 2, “the side walls” in line 3, “a raised position” on lines 3-4, and “the horizontal axis” on line 4. There is insufficient antecedent basis for these limitations in the claim. In addition on line 3, “they” is recited which is unclear and perhaps is improper language for the claims. On line 5, it is unclear what is meant by “sufficient”.

In claim 50, line 1, the “horizontally divided locking means” are unclear.

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In claim 53, the "two living hinges" are unclear. Further, the phrase starting on line 2 with "the living hinges enabling" and ending on line 4 with "hinges;" is unclear, specifically as to how this is performed with the divider panel as shown in the figures.

***Claim Rejections - 35 USC § 102***

13. The following is a quotation of the appropriate paragraphs of 35 U.S.C. 102 that form the basis for the rejections under this section made in this Office action:

A person shall be entitled to a patent unless --

(b) the invention was patented or described in a printed publication in this or a foreign country or in public use or on sale in this country, more than one year prior to the date of application for patent in the United States.

14. Claims 1-4, 8, 10-11, 15-17, 22, 24-25, 26, 28, 44, 49, and 50, as best understood, are rejected under 35 U.S.C. 102(b) as being anticipated by Heft.

Heft discloses the claimed invention including a storage compartment in a vehicle liner, such as a truck bed liner, having a hingedly affixed divider panel 63 and a hingedly affixed enclosure panel 73. The divider and enclosure panels can be positioned to form an enclosed compartment. The storage compartment further includes divider panel securing means and enclosure panel securing means. The divider panel has two hinges at predetermined locations on the divider panel. Further, the storage compartment comprises a base panel 185 having first and second sides. The base panel is affixed to the enclosure panel. The divider and enclosure panels are adjacent to one another. In addition, the divider panel securing means 129 includes protrusions 131, 133. The enclosure panel securing means comprises a left and right horizontal

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support assemblies 87 on either side of the vehicle or truck bed. The assemblies 87 include L-shaped members with a first leg 89 and a second leg 91. A latch assembly 85 helps to further secure the enclosure panel. In addition, the panels can be folded down into a recess 267 which can act as a "horizontally divided locking means" to maintain the panels in a horizontal position.

***Claim Rejections - 35 USC § 103***

15. The following is a quotation of 35 U.S.C. 103(a) which forms the basis for all obviousness rejections set forth in this Office action:

(a) A patent may not be obtained though the invention is not identically disclosed or described as set forth in section 102 of this title, if the differences between the subject matter sought to be patented and the prior art are such that the subject matter as a whole would have been obvious at the time the invention was made to a person having ordinary skill in the art to which said subject matter pertains. Patentability shall not be negated by the manner in which the invention was made.

16. Claims 9, 14, 23, 29, 30, and 53 are rejected under 35 U.S.C. 103(a) as being unpatentable over Heft in view of Elson et al.

Heft does not disclose expressly the storage compartment wherein the hinge means is a living hinge. Further, Heft lacks the divider panel securing means comprising at least two protrusions.

Elson et al. disclose a storage device for a vehicle compartment having dividers 42, 44. The divider 42 includes panel portions 48,50 that are connected together by living hinges 52. Snap-on hinge brackets 56, 58 are integrally molded to the panel portion 50 and snap fit onto hinge pins 60, 62 integrally molded into the storage box 30. Similar hinge brackets 66, 68 project

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from a side of the panel portions 48, 50 to snap fit onto hinge pins 70, 72 provided in the storage box. The panels can be folded about the living hinges and formed into a storage compartment.

Heft and Elson et al. are analogous art because they are from the same field of endeavor or similar problem solving area, that is auxiliary article compartments.

At the time of the invention, it would have been obvious to a person of ordinary skill in the art to use living hinges as taught by Elson et al. on the storage compartment of Heft as an obvious expedient and in order to provide resilient, long-life hinges impervious to liquids and to improve appearance and safety.

Therefore, it would have been obvious to combine Elson et al. with Heft to obtain the invention as specified in claims 9, 14, 23, 29, 30, and 53.

#### ***Allowable Subject Matter***

17. Claims 46-48 would be allowable if rewritten to overcome the rejection(s) under 35 U.S.C. 112, 2<sup>nd</sup> paragraph, set forth in this Office action and to include all of the limitations of the base claim and any intervening claims.

#### ***Conclusion***

18. The prior art made of record and not relied upon is considered pertinent to applicant's disclosure. The cited references show other bed liners, storage compartments, and truck bed similar to that of the current invention.



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19. Any inquiry concerning this communication from the examiner should be directed to Hilary L. Gutman whose telephone number is (703) 305-0496.

20. **Any response to this action should be mailed to:**

Assistant Commissioner for Patents

Washington, D.C. 20231

**or faxed to:**

(703) 305-3597, (for formal communications intended for entry)

**or:**

(703) 308-3297, (for informal or draft communications, please clearly label

“PROPOSED” or “DRAFT”).

hlg

August 15, 2000

A handwritten signature in black ink, appearing to read 'D. Glenn Dayoan', followed by a date '8/18/00'.

D. GLENN DAYOAN  
SUPERVISORY PATENT EXAMINER  
TECHNOLOGY CENTER 3600